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ORIGINAL  
**ComEd**®Commonwealth Edison Company  
Energy Delivery  
Three Lincoln Centre  
Oakbrook Terrace, IL 60181-4260

www.exeloncorp.com

An Exelon Company

**Via Overnight Delivery**

December 22, 2006

Ms. Elizabeth Rolando  
Chief ClerkIllinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701

FILED IN COMPLIANCE WITH

☒ Order No. 06-0617  
☐ Law ☐ Tariff Prov.

Check for Compliance

Date 01-04-07PUBLIC UTILITIES DIVISION  
ENGINEERING DEPARTMENT**RECEIVED**

DEC 26 2006

ILLINOIS COMMERCE COMMISSION  
CHIEF CLERK'S OFFICE

Subject: Compliance Filing of Tariff Sheets and Related Documents Pursuant to the Order of the Illinois Commerce Commission ("ICC") Entered December 20, 2006, in Docket No. 06-0617.

Dear Ms. Rolando:

Pursuant to the Order of the ICC entered December 20, 2006, in Docket No. 06-0617, enclosed for filing with the ICC on December 26, 2006, to be effective January 2, 2007, are 16 tariff sheets shown on the attachment entitled "Tariff Listing". In addition, the following documents are being filed in accordance with the ICC order:

Document	Description	Pages
Program Administrator Agreement	The executed Program Administrator Agreement entered into between ComEd and Converge, Inc., the Program Administrator selected through ComEd's Request For Proposals for ComEd's residential real-time pricing program	19 pages
RRTP Work Paper (Based on ComEd Exhibit 1.4)	The Determination of Residential Real-Time Pricing Program Cost Recovery Charge and the Implementation of the Participation Fee	3 pages

Also enclosed are two additional copies of the 16 tariff sheets, Tariff Listing attachment, the Program Administrator Agreement, the RRTP Work Paper, and this letter. One set of such documents is provided for your convenience in acknowledging receipt of this letter and its enclosures and is to be returned to Commonwealth Edison Company in the enclosed self-addressed stamped envelope.

Also enclosed are five copies of the 16 tariff sheets (marked "DUPLICATE"), Tariff Listing attachment, the Program Administrator Agreement, the RRTP Work Paper, and this letter for transmission to Mr. Harry Stoller (Director, Energy Division, Bureau of Public Utilities), Dr. Tom Kennedy (Manager - Energy Division, Bureau of Public Utilities), Dr. Eric Schlaf (Sr. Economic Analyst - Energy Division, Bureau of Public Utilities), Mr. John Hendrickson (Manager - Rates, Financial Analysis Division, Bureau of Public Utilities), and Ms. Terrie McDonald (Tariff Analyst, Rates - Financial Analysis Division, Bureau of Public Utilities), of the ICC Staff.

An electronic version of the RRTP Work Paper is being sent to Dr. Schlaf at [eschlaf@icc.illinois.gov](mailto:eschlaf@icc.illinois.gov).

Sincerely,

*Lawrence S. Alongi*Lawrence S. Alongi  
Manager, Retail Rates

Enclosures

cc: H. Stoller, T. Kennedy, E. Schlaf, J. Hendrickson, T. McDonald

12/26/06  
MS

**TARIFF LISTING  
ATTACHMENT  
COMMONWEALTH EDISON  
COMPANY  
ELECTRICITY  
ILL. C. C. NO. 4**

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Table of Contents	8th Revised Sheet No. 1.03	canceling	7th Revised Sheet No. 1.03
Rate BES-H	4th Revised Sheet No. 336	canceling	3rd Revised Sheet No. 336
	2nd Revised Sheet No. 336.1	canceling	Original Sheet No. 336.1
Rate RDS	2nd Revised Sheet No. 364	canceling	1st Revised Sheet No. 364
Rider AC7	2nd Revised Sheet No. 428	canceling	1st Revised Sheet No. 428
Rider ML	2nd Revised Sheet No. 452	canceling	1st Revised Sheet No. 452
Rider RCA	2nd Revised Sheet No. 467	canceling	1st Revised Sheet No. 467
	Original Sheet No. 467.1	N/A	N/A
General Terms and Conditions	2nd Revised Sheet No. 558	canceling	1st Revised Sheet No. 558
	2nd Revised Sheet No. 559	canceling	1st Revised Sheet No. 559
Rider RRTP	Original Sheet No. 609	N/A	N/A
	Original Sheet No. 610	N/A	N/A
	Original Sheet No. 611	N/A	N/A
	Original Sheet No. 612	N/A	N/A
Rider RES-RRTP	Original Sheet No. 613	N/A	N/A
	Original Sheet No. 614	N/A	N/A

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Order Entered: December 20, 2006  
Compliance Filing: December 26, 2006

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## PROGRAM ADMINISTRATOR AGREEMENT

This **Program Administrator Agreement** ("Agreement") is made and entered into as of this 22nd day of December, 2006, by and between Comverge, Inc. ("PA"), with its principal office located at 120 Eagle Rock Avenue, Suite 190, East Hanover, NJ 07936, and Commonwealth Edison Company, with its principal office located at 440 South LaSalle Street, Suite 3300, Chicago, IL 60605 ("ComEd").

### Recitals

**WHEREAS**, section 16-107 of the Illinois Public Utilities Act ("Act") (220 ILCS 5/16-107) (the "RTP Provision") requires ComEd to file a tariff or tariffs allowing residential retail customers in ComEd's service territory to elect to receive real-time pricing service beginning January 2, 2007, which ComEd did file with the Illinois Commerce Commission ("ICC") for approval on August 29, 2006 (the tariff finally approved by the ICC referred to as the "RTP Tariff"); and

**WHEREAS**, the RTP Provision further provides that if the ICC issues an order approving the RTP Tariff and makes certain findings in that order, ComEd shall contract with an entity to serve as program administrator to perform the services specified in subsection b-15 of the RTP Provision; and

**WHEREAS**, on December 20, 2006, the ICC did issue an order in Docket No. 06-0617, approving the RTP Tariff and making the findings specified in the RTP Provision (the "RTP Order"); and

**WHEREAS**, in the RTP Order, the ICC also gave its approval for ComEd to enter into this Agreement with PA.

**NOW, THEREFORE**, in consideration of the premises and mutual agreements contained herein, the parties hereto agree as follows:

1. Scope of Services.

1.1 PA shall provide the services specified in Appendix A1 (the "Services"), which is incorporated herein by reference. A further description of and an annual budget for the Services are provided in Appendix A2. It is anticipated by ComEd and PA, as of the date of the execution of this Agreement, that PA will provide the Services as described in Appendix A2. PA, in its discretion, may allocate amounts in the annual budget to the various elements of the Services as described in Appendix A2. The PA may reallocate such amounts annually as the PA gains experience with the implementation of the Services. All such allocations shall be explained and accounted for in the report and audit provided for in Section 20.2 and Appendix A1.

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warrants and covenants that the Services will be performed in accordance with all applicable laws, orders, rules, and regulations (including any applicable orders, rules and regulations of the ICC) and with promptness and diligence and executed in a professional manner, in accordance with the practices and professional standards used in well-managed operations performing services similar to the services procured under this Agreement.

1.2 In addition to the services specified in Appendix A1, PA may also develop and implement risk management, energy efficiency, and other services related to energy use management; provided, however, that PA shall be compensated for such services directly from the participants receiving such services, and ComEd shall have no obligation to compensate PA for such services or to reimburse PA for any costs related to such services.

1.3 The Program Administrator may also provide certain of the above-described services to residential retail customers who take real-time pricing service from a retail electric supplier ("RES") upon request of a RES. The RES shall be responsible for all customer outreach, enrollment and education concerning the real-time pricing program offered by the RES. The Program Administrator shall provide information and electricity management services to the RES customer provided that the RES supplies the Program Administrator with all necessary customer and other information in a file format that the Program Administrator can import into its systems, processes and databases used to provide those services. If the provision of such services to customers of a RES requires the Program Administrator to undertake activities or incur costs that would not be undertaken or incurred if the customer took service from ComEd, the Program Administrator shall receive compensation for such services from the RES or its customer receiving the services. The Program Administrator may also provide additional or other services for the RES or its customer, provided that it seek compensation for such services from the RES or its customer.

## 2 Engagement Managers.

2.1 PA will assign an experienced manager (the "PA Engagement Manager") who will: (i) oversee and manage the performance of PA's obligations under this Agreement (which shall include the responsibility to see that all Services satisfy the requirements of this Agreement); (ii) serve as PA's primary point of contact for operational matters pertaining to this Agreement; (iii) have the authority to make binding commitments on behalf of PA; and (iv) promptly answer ComEd's queries and cooperate with ComEd to address issues relating to the Services deemed urgent by ComEd.

2.2 ComEd will assign an individual who will serve as ComEd's primary point of contact with PA for all matters pertaining to this Agreement (the "ComEd Engagement Manager"). The ComEd Engagement Manager will be responsible and authorized to accommodate reasonable requests by the PA Engagement Manager for data, information and support related to the Services specified in Appendix A1.

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3. Employees and Subcontractors

3.1 Competent Workers. PA shall employ and cause each subcontractor to employ competent, appropriately trained and experienced employees for the Services to be performed. PA shall have full responsibility for the conduct of all employees employed on or in connection with the Services (including employees of any subcontractor) and will ensure that there is adequate, daily supervision of all Services. PA shall be familiar with and observe established and accepted labor practices, procedures, and project agreements. Notwithstanding the foregoing, ComEd's execution of this agreement shall be deemed its prior written approval of any subcontracting arrangements listed in Appendix D.

3.2 Subcontracts. Any portion of the Services to be performed for PA by a subcontractor shall be performed pursuant to an appropriate written subcontract between PA and the subcontractor ("Subcontract"). PA may employ subcontractors in connection with the Services only upon prior written approval by ComEd. ComEd may withhold any such permission in its sole discretion. No Subcontract shall relieve PA of its obligations under this Agreement. PA shall cause any and all of its subcontractors to comply with all applicable laws, orders, rules, and regulations (including any applicable orders, rules, and regulations of the ICC) in the performance of the Services hereunder.

3.3 Background Investigations. PA will be required to conduct background investigations in accordance with ComEd's security procedures for all of its personnel who will have access to (i) ComEd assets, including buildings/properties; (ii) Customer Information; and/or (iii) who will have customer contact. Such investigations must be completed within three (3) months of the Effective Date. Performance of background investigations is a material term and condition of this Agreement.

PA will be responsible for conducting the background investigations at its own expense and shall not be entitled to recover costs for conducting such.

In addition to the foregoing, if PA becomes aware that any individual performing Services hereunder is charged with or convicted of a felony or a misdemeanor, PA shall remove such individual from performing Services hereunder unless and until (i) the charge is resolved without a conviction, or (ii) PA informs ComEd of the circumstances and ComEd approves in writing such individual continuing to perform Services hereunder.

4. Fees, Expenses and Taxes.

4.1 In consideration for the performance of the Services provided by PA hereunder, ComEd shall pay to PA the annual fee set forth in Appendix B hereto, payable in twelve (12) monthly installments. This fee shall cover all costs incurred by PA in performing the Services, including labor and out-of-pocket expenses. While the PA may, in its discretion, expend amounts greater than those provided for in Appendix A2, ComEd

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shall only be obligated to pay the PA the amounts listed in Appendix B, and no other amounts shall be due to PA under this Agreement.

4.2 PA shall present monthly invoices to ComEd, as hereinafter provided. Each invoice shall include PA's name, address, date, and total amount due (i.e. one-twelfth of the annual fee) for the time period covered by the invoice. Each invoice shall also include, for informational purposes, a detailed itemized list of the Services performed during the period covered by the invoice identifying the employees or subcontractor performing the Services and the number of hours worked on each of the Services performed. Each invoice shall also identify, once again for informational purposes only, the general category and amount of expenses incurred during the time period. Invoices that ComEd deems inaccurate or incomplete, in its reasonable discretion, may be returned to PA for correction and re-submittal.

4.3 Payment on PA's invoices shall be made within forty-five (45) days of receipt by ComEd. PA reserves the right to suspend its performance of the Services, on notice to ComEd, if payment of the full amount of the undisputed portion of each monthly invoice is not received within fifteen (15) days of notice by PA to the ComEd Engagement Manager of any failure to pay an invoice after such forty-five (45) day period.

5. Independent Contractor Status.

In connection with this Agreement, PA shall be an independent contractor and as such it acknowledges that it does not have any authority to bind or commit ComEd and none of PA's acts or omissions can or may be imputed to ComEd, including any acts or omissions related to the Commission's Standards of Conduct and Functional Separation rules as they might otherwise apply to ComEd as an Integrated Distribution Company ("IDC") under Part 452 of the Commission's rules (83 Ill. Adm. Code Part 452.200 *et seq.*). PA has the sole obligation to supervise, manage, contract, direct, procure, perform or cause to be performed, all Services to be provided by PA under this Agreement. Neither PA, nor any of its officers, directors, employees or subcontractors and their officers, directors and employees, shall, for any reason or purpose, be deemed to be an agent, partner, or employee of ComEd and in no case shall PA or its employees, agents and servants make any representation or act to the contrary. PA agrees to indemnify and hold harmless ComEd for any claim asserted against ComEd alleging that ComEd is an employer, co-employer, joint employer, or principal of PA or any PA personnel or subcontractor. PA shall have full responsibility for payment of all withholding, payroll, or other taxes of any kind arising out of the Services, excluding sales taxes, if any, applicable to the Services.

6. Work Product.

6.1 Any and all products of the work performed by PA and developed specifically for ComEd under this Agreement or in connection with the Services (collectively, "Work Product") shall be the sole and exclusive property of ComEd, and from the moment it is first embodied in any perceptible form, any such Work Product qualifying for protections under the copyright laws of the United States shall be deemed to be the property of ComEd.

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be considered "works made for hire" and shall be the sole and exclusive property of ComEd, subject only to PA's Pre-Existing Rights and (as defined below) and to any Third Party Rights (as defined below). PA shall fully, freely, and immediately disclose all Work Product to ComEd. PA hereby assigns, transfers, and conveys to ComEd all of PA's now existing and hereafter arising right, title, and interest in, to, and under all Work Product, except for PA's Pre-Existing Rights and Third Party Rights. ComEd acknowledges that PA provides services to other clients, and agrees that nothing in this Agreement shall be deemed or construed to prevent PA from carrying on such business. PA shall promptly provide to ComEd all such information and other materials relating to the Services that ComEd may reasonably request in connection with any filing or other submission ComEd is making with any regulatory or other governmental authority, and PA may disclose all such information to such regulatory and other governmental authority as ComEd deems to be necessary or appropriate, provided that before disclosing any such information that has been designated by PA or any third party as a trade secret, ComEd will give the owner of such trade secret reasonable notice and an opportunity to obtain a protective order or other relief to prevent the loss of such trade secret. In addition, PA shall cooperate with ComEd as requested by ComEd with respect to such filings or submissions. ComEd agrees that, notwithstanding anything set forth herein to the contrary, PA's generalized ideas, concepts, know-how, tools, models, methodologies and techniques utilized or developed at any time prior to the effective date of this Agreement or developed at any time thereafter independently from the performance of Services related to the creation of Work Product, and any improvements or derivatives of any of the foregoing developed in the course of the work performed by PA and all intellectual property rights therein (collectively, "PA's Pre-Existing Rights") are not deemed "Work Product" and belong to PA ("PA's Proprietary Information"). Except as provided in Section 6.2 ComEd shall receive no right or interest in and to PA's Proprietary Information or any proprietary information of a third-party used by PA to perform the Services under this Agreement or incorporated into any Work Product delivered to ComEd pursuant hereto, including all intellectual property rights of such third parties (collectively, "Third Party Rights").

6.2 Unless otherwise agreed to in writing by ComEd, in the event and to the extent that any of the Work Product produced by PA hereunder contains any PA Proprietary Information, PA hereby grants to ComEd an irrevocable, perpetual, paid-up, non-exclusive, royalty-free, world-wide right and license under PA's Pre-Existing Rights to use, produce, reproduce, perform, distribute copies of, execute, publish, transmit and prepare derivative works based upon such PA Proprietary Information as embodied in the Work Product, and only to the extent embodied in the Work Product, and to authorize others to do any of the foregoing.

7. Confidential Information.

7.1 To the extent required by the RTP Provision, ComEd will provide PA with all information that is reasonably necessary for PA to perform the Services, including, but not limited to, customer, account and energy use data ("Customer Information").

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7.2 Neither PA nor any of its subcontractors will:

(a) disclose any Customer Information or other information of ComEd that is specifically identified as confidential (i.e., stamped or otherwise clearly marked or identified as "confidential" or "protected") (such information, together with any notes, memoranda, analysis or other documents of PA or any subcontractor reflecting such information, being collectively herein referred to as the ("Information")); or

(b) use any Customer Information for any purpose other than in furtherance of the Services to be rendered by PA hereunder. The PA may use the Customer Information to offer or to provide other services to a customer only with the written permission of that customer.

PA shall be responsible for the compliance of its subcontractors with respect to Information and will take all steps reasonably necessary so that the confidentiality of the Information in its or a subcontractor's possession shall be maintained. Upon termination of PA's engagement, all documents and records in PA's possession containing the Information shall be returned to ComEd and all electronic forms of Information deleted.

7.3 Notwithstanding anything to the contrary contained herein, the provisions of this Section 7 shall not apply to any Information: (i) which at the time disclosed to, or obtained by, PA is in the public domain; (ii) which becomes part of the public domain through no fault of PA; (iii) which is communicated to PA by a third party who is not, to PA's knowledge, subject to any confidentiality obligations with respect thereto; (iv) which is independently developed by PA without reference to any information disclosed to or obtained by PA hereunder; or (v) which is required to be disclosed by law, including, without limitation, pursuant to the terms of a subpoena or other similar process or in connection with a litigation, arbitration or other proceeding; provided, however, that PA shall give prior timely notice of such disclosure to ComEd to enable it to challenge any such legal process, and shall at ComEd's expense take such actions as directed by ComEd to challenge any such legal process.

7.4 PA acknowledges that the breach of any of the covenants contained in this Section 7 will result in irreparable harm and continuing damages to ComEd and ComEd's business and customers, and that ComEd's remedy at law for any such breach or threatened breach would be inadequate. Accordingly, in addition to such remedies as may be available to ComEd at law or in equity in the event of any such breach, any court of competent jurisdiction may issue an injunction (both preliminary and permanent), without bond, enjoining and restricting the breach or threatened breach of any such covenant, including, but not limited to, an injunction restraining PA from disclosing, in whole or in part, any Information. PA shall pay all of ComEd's costs and expenses, including reasonable attorneys' fees and accountants' fees, incurred in enforcing such covenants, to the extent ComEd is the prevailing party in an action to enforce such covenants.

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7.5 Nothing in Sections 6 or 7 shall be construed to prevent PA or its affiliate organizations from compiling, analyzing and otherwise conducting research and publishing research on the nature and effectiveness of real time energy pricing using aggregate data, including data comprises Work Product or Information, in a manner that does not result in the disclosure of any personally identifiable Customer Information or any trade secrets of ComEd. Any publication of research containing information identifiable to ComEd is subject to ComEd review and approval. Such approval will not be reasonably withheld, conditioned or delayed.

7.6 If and to the extent that performance of PA's obligations or the exercise of ComEd's rights under this Agreement makes it necessary or desirable for PA to disclose to ComEd or any persons representing ComEd any non-public information that comprises a trade secret of PA or any third party or that PA has otherwise designated as confidential or proprietary, the PA may condition such disclosure upon ComEd and its representatives executing an appropriate confidentiality or non-disclosure agreement containing reasonable restrictions upon the unauthorized disclosure or use of such information.

8. Term. This Agreement shall be effective as of the later of 1) January 2, 2007, or 2) the date it is approved by a final order of the ICC ("Effective Date"), and shall terminate on December 31, 2010, without notice, unless the term hereof is extended pursuant to express written agreement of the parties or terminated earlier in accordance with Section 9 hereunder. The rights and obligations of the parties under this Agreement that by their nature continue beyond the expiration of this Agreement shall survive any termination or cancellation of this Agreement including, without limitation, all rights and obligations under Sections 6, 8, 11, 12, 13, 16-21, and 23-29 and all rights and licenses granted by PA under Section 7.

9. Termination.

9.1 Either ComEd or PA may, upon giving at least thirty (30) days' prior written notice identifying specifically the basis for such notice ("Notice"), terminate this Agreement for breach of a material term or condition of this Agreement, provided the breaching party shall not have cured such breach within the thirty (30) day period after being requested in writing to do so. In the event of such termination by PA, PA shall be entitled to payment of all fees, on a prorated basis, for work performed by PA as provided in Section 4 through the effective date of such termination.

9.2 This Agreement will terminate automatically and immediately in the event that (a) the RTP Provision, the RTP Order or the RTP Tariff is stayed, reversed, repealed or otherwise rendered inoperable, ineffective or void; or (b) ComEd, for any reason, is prohibited from or is otherwise unable to collect any and all of the costs it incurs under this Agreement from its retail customers. In the event of such termination, PA shall be entitled to payment of all fees, as provided in Section 4 due and payable up to the effective date of such termination.

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9.3 Upon termination of this Agreement for any reason, PA will cease all work and shall promptly provide to ComEd all materials provided to PA by ComEd in connection with this Agreement and all Work Product and files developed by PA under this Agreement.

10. Cooperation.

10.1 To the extent required by the RTP Provision, ComEd shall provide all reasonably necessary cooperation and assistance to enable PA to provide the Services pursuant to this Agreement.

10.2 PA shall provide all reasonably necessary cooperation and information to assist ComEd in any regulatory proceedings, audit, examination or query in connection with the Services performed under this Agreement. To that end and without limiting the foregoing, PA hereby agrees to keep and maintain until so directed by ComEd, detailed records of and to fully document the Services provided hereunder and to make all such records and documents available to ComEd or the ICC upon request. PA further agrees to cooperate and to coordinate with ComEd concerning enrollment volumes and the timing of meter installations.

11. Liability. No party hereto, except for PA's indemnification obligations, will be liable to any other party hereto in connection with the Services or any matter relating to the Services for any indirect, special, punitive, consequential or incidental damages, including loss of profits incurred by such other party hereto. In addition, notwithstanding anything to the contrary, except for PA's indemnification obligations hereunder, PA will not be liable to ComEd for any claim or claims (and/or associated damages, fees or costs) which individually or in the aggregate exceed an amount equal to the total professional fees paid or payable to PA for the Services under this Agreement.

12. Indemnification. PA shall indemnify, defend and hold harmless ComEd and its affiliates, officers, directors, employees, successors, and assigns from any and all Losses and threatened Losses to the extent arising from, in connection with, or based on allegations of, any of the following:

- any claim resulting from the negligent acts or omissions or willful misconduct of PA or its subcontractors;
- any claim arising out of or related to PA's non-performance of its obligations hereunder;
- any claim that any act of PA, its officers, directors, employees and subcontractors violates any law, rule, order, or regulation of any governmental body, or causes ComEd to be in violation of any law, rule, order, or regulation of any governmental body;
- any claim alleging that the Services or Work Product infringe or violate any patent, copyright, trademark, trade secret or other proprietary right of any third party; and
- any claim that PA is an agent of ComEd or that ComEd is an employer, co-employer, joint employer or principal of PA or any of its

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officers, directors, employees or subcontractors.

"Losses" shall mean all losses, liabilities, damages and claims, and all related costs and expenses (including reasonable legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties).

13. Insurance. PA represents that it now carries, and agrees it will continue during the term of the Agreement to carry, worker's compensation, comprehensive general and contractual liability, professional liability and commercial automobile liability insurance with minimum insurance coverage in the following amounts:

Description		Limits
(1)	Worker's Compensation Employer's Liability	Statutory \$1,000,000
(2)	Comprehensive General Liability or Commercial General Liability (Public Liability) including: a. Bodily Injury, Personal Injury and Property Damage  or Bodily Injury, Personal Injury and Property Damage  b. Blanket Contractual c. Products and Completed Operations Hazard d. Broad Form Property Damage	\$1,000,000 per occurrence or Claim and Aggregate  \$1,000,000 Combined Single Claim and Aggregate Included Included Included
(3)	Excess or Umbrella liability insurance to apply to each of the above mentioned policies	\$2,000,000 in aggregate
(4)	Professional Liability	\$1,000,000 in aggregate
(5)	Automobile Liability Insurance (owned, hired, and non-owned): Bodily Injury and Property Damage	\$1,000,000 in aggregate

PA shall cause ComEd and its officers, directors, employees, agents, subsidiaries, successors and assigns to be named additional insureds on the Comprehensive General Liability and Automobile Liability policies with respect to their vicarious liability arising out of, resulting from or based upon the Services provided with this Agreement.

Prior to the start of the Services, PA shall furnish an insurance certificate to ComEd evidencing to the foregoing coverages. If a certificate has an expiration date, PA shall furnish an updated insurance certificate to ComEd within fifteen (15) days prior to expiration of the then current insurance certificate. Each certificate shall include:

- a. Name of insurance company, policy number and expiration date

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- b. The coverages required whether for claims made or occurrence, and the limits on each;
- c. A statement that ComEd shall receive thirty (30) days prior written notice of cancellation or material modification of any of the policies; and
- d. A statement that PA has caused ComEd and its officers, directors, employees, agents, subsidiaries, successors and assigns to have been named additional insureds, as required by this Agreement.

PA shall not commence the Services unless its obligations under this Section are met.

14. Force Majeure. PA shall not be liable for any delays or failures in performance due to circumstances beyond its reasonable control or that of any of its subcontractors. For the purpose of this Agreement, "circumstances beyond its reasonable control" are occurrences such as acts of God, acts of civil or military authorities, governmental priorities, fires, floods, epidemics, war or riots.

15. Entire Agreement. This Agreement, including the Appendices attached hereto, constitutes the full and complete understanding between the parties hereto about its subject.

16. Amendment. This Agreement may be amended or supplemented only in writing signed by all parties.

17. Assignability. Except as hereinafter provided, no party hereto may assign any of the rights or obligations created by this Agreement except with the express written consent of the other party hereto, provided that PA may, subject to the provisions of Sections 3 and 4 hereof, utilize the services of subcontractors to perform the Services as specified in Appendix A1 hereto, provided that PA shall remain liable for performance by such subcontractors of its obligations under this Agreement. Notwithstanding the above, PA may assign this Agreement to a wholly-owned subsidiary of PA if required by financing documents of the PA, provided that PA shall be a guarantor of, and shall guarantee and be liable for performance of the obligations under this Agreement by, such subsidiary.

18. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without regard to any conflict of laws provisions thereof.

19. Jurisdiction. Any legal claim, suit, proceeding or action brought against any party arising out of, connected with or related to this Agreement shall be brought in the courts of the State of Illinois or in the United States District Court for the Northern District of Illinois, other than claims that are subject to the jurisdiction of the ICC.

20. Audit and Reports.

20.1 The ICC, its staff or a public accounting firm designated to represent the ICC or its staff shall be afforded free and unrestricted access, at all reasonable times

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25. Headings. Section Headings are for convenience only and shall not affect the interpretation of this Agreement.

26. Cumulative Remedies. Each party's rights and remedies under this Agreement shall be cumulative and additional to any other or further rights or remedies provided in law or equity or otherwise. ComEd shall specifically retain all rights of legal action in tort under this Agreement on all issues relating to contribution, insurance coverage, and contractual indemnity.

27. Publicity. With the sole exception of publication of such information within each party's corporate entity and subject to the confidentiality provisions of this Agreement, each party shall not refer to the other party or any company affiliated with the other party in any advertising or other publication in connection with goods or services rendered by the party that is not within the scope of the Services performed pursuant to the Agreement, without the prior written approval of the other party.

28. Notices. Any notice pertaining to this Agreement or the Services performed hereunder shall be in writing and sent via facsimile transmittal with confirmation of receipt, registered or certified mail, postage prepaid, or by commercial overnight courier, to the ComEd Engagement Manager or the PA Engagement Manager as appropriate, at their respective addresses appearing below. Notices shall be effective only when received.

To PA: Comverge, Inc.  
Alternative Energy Resources  
120 Eagle Rock Ave., Suite 190  
East Hanover, NJ 07936  
Attn: Paul Heitmann

FILED IN COMPLIANCE WITH	
<input checked="" type="checkbox"/> Order No. <u>06-0017</u>	
<input type="checkbox"/> Law	<input type="checkbox"/> Tariff Prov.
Check for Compliance	
Date <u>01-04-07</u>	
PUBLIC UTILITIES DIVISION	
ENGINEERING DEPARTMENT	

To ComEd: Commonwealth Edison Company  
440 South LaSalle Street, Suite 3300  
Chicago, IL 60605  
Attn: Janet Bieniak

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DEC 26 2006

ILLINOIS COMMERCE COMMISSION  
CHIEF CLERK'S OFFICE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

PA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

FILED IN COMPLIANCE WITH	
<input checked="" type="checkbox"/> Order No. <u>02-0607</u>	
<input type="checkbox"/> Law	<input type="checkbox"/> Tariff Prov.
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PUBLIC UTILITIES DIVISION	
ENGINEERING DEPARTMENT	

COMMONWEALTH EDISON COMPANY

By: Vivek R. Ramagopal  
Name: Anne R. Ramagopal  
Title: Se VP, Regulatory Strategies & Services

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ILLINOIS COMMERCE COMMISSION  
CHIEF CLERK'S OFFICE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

PA

By: Michael Picchi

Name: MICHAEL PICCHI

Title: VP-CHIEF FINANCIAL OFFICER

FILED IN COMPLIANCE WITH	
<input checked="" type="checkbox"/> Order No. <u>00000000</u>	<input type="checkbox"/> Tariff Prov.
Check for Compliance	
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PUBLIC UTILITIES DIVISION	
ENGINEERING DEPARTMENT	

COMMONWEALTH EDISON COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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<input type="checkbox"/> Law	Check for Compliance
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ADMINISTRATIVE DEPARTMENT	

## Appendix A1

### SCOPE OF SERVICES

The Services are those required by the RTP Provision and break down into four components:

1. The development and implementation of a program to provide consumer outreach, enrollment, and education to residential retail customers concerning real-time pricing of electricity;
2. The establishment and administration of an information system and technical and other customer assistance that is necessary to enable residential retail customers to manage electricity use; the information system must, at a minimum, include a website where customers can access online their monthly bills, their hourly energy usage for each month and the amount of savings they achieved for that month through their enrollment in the RTP Tariff;
3. The development and submission of an annual report to ComEd no later than April 1 of each year describing the operation and results of the program, including information concerning the number and types of residential retail customers using real-time pricing, changes in residential retail customers' energy use patterns, an assessment of the value of the program to both participants and non-participants, and recommendations concerning modifications of the program and RTP Tariff. The annual report may include aggregated customer information, but may not include any customer-specific information. Various parties may submit comments on the annual report and propose additional modifications to the program. ComEd will convene a meeting of the Program Administrator and the other parties to discuss the proposed modifications, after which the Program Administrator shall implement those modifications which, in its judgment, will improve the program. The PA shall not receive any additional compensation for the implementation of the modifications; and
4. The participation in any ICC proceeding, investigation or inquiry to consider the effectiveness of this program in providing net benefits to residential retail customers, including the development of any reports, testimony or information requested by the ICC or its staff.

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**Appendix A2**  
**Annual Budget**

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	2007	2008	2009	2010	Total
<b>Customers Required</b>	15,000	30,000	30,000	35,000	110,000
<b>OUTREACH</b>	\$763,200	\$660,800	\$660,800	\$660,800	\$2,745,600
<b>OPERATIONS</b>	\$219,583	\$264,655	\$258,175	\$295,640	\$1,038,053
<b>ADMINISTRATION</b>	\$123,000	\$123,000	\$123,000	\$123,000	\$492,000
<b>TOTAL COST</b>	\$1,105,783	\$1,048,455	\$1,041,975	\$1,077,640	\$4,273,853

**Description of Services**

**Outreach** may include, but is not limited to, two (2) inserts per year in the ComEd bill, direct mail, market research, a sweepstakes, print advertising, radio advertising, web advertising, online banner advertising, the development of a program brochure in Spanish, the costs of an advertising agency, and public relations expenses.

**Operations** consists of the following types of costs and activities: the development of a platform for and the ongoing operations of a call center; enrollment, including fulfillment and processing of wet signatures; an e-mail based referral system for existing customers; the web portal development; data transfer systems and IT support; and a messaging and high-price alert system.

**Administration** consists of the following types of costs: the Program Administrator; travel; annual audit; annual report; assistance in ICC proceedings.

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**Appendix B**

**Annual Fees**

2007 -- \$1,105,783

2008 - \$1,048,455

2009 - \$1,041,975

2010 - \$1,077,640

FILED IN COMPLIANCE WITH  
☒ Order No. 06-0017  
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**Appendix C**

"Affiliate" has the same meaning as set forth in section 7-101 of the Act (220 ILCS 5/7-101). That definition is reproduced below:

- (a) Every corporation and person owning or holding, directly or indirectly, 10% or more of the voting capital stock of such public utility;
- (b) Every corporation and person in any chain of successive ownership of 10% or more of voting capital stock;
- (c) Every corporation, 10% or more of whose voting capital stock is owned by any person or corporation owning 10% or more of the voting capital stock of such public utility, or by any person or corporation in any such chain of successive ownership of 10% or more of voting capital stock;
- (d) Every corporation, 10% or more of whose voting securities is owned, directly or indirectly by such public utility;
- (e) Every person who an elective officer or director of such public utility or of any corporation in any chain of successive ownership of 10% or more of voting capital stock; and
- (f) Every corporation which has one or more elective officers or one or more directors in common with such public utility.

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**Appendix D**

**Approved Subcontracts**

Conversion Services International

InContact

Union Hill

GFS (Goldberg Foss Scid Advertising)

Mass Transmit

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**The Determination of the Residential Real-Time Pricing Program Cost Recovery Charge  
 and the Implementation of the Participation Fee**

FILED IN COMPLIANCE WITH

Order No. 00-00017  
 Date 01-04-07  
 PUBLIC UTILITIES DIVISION  
 ENGINEERING DEPARTMENT

**General Assumptions<sup>(13)</sup>**

Test Year Number of Residential Bills <sup>(1)</sup>	39,967,135 a
Uncollectibles % <sup>(2)</sup>	1.43% b
Base Case - Customers <sup>(3)</sup>	1,100
Attrition Rate of New Participants <sup>(4)</sup>	3.8%
Meter Lease Charges (per meter per month) <sup>(5)</sup>	\$5.36

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Per Meter Exchange Charges <sup>(6)</sup>	\$81.63	\$84.81	\$88.12	\$91.56

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Bill Inserts (twice per year) <sup>(7)</sup>				
Estimated cost of printing bill inserts	\$0	\$0	\$0	\$0
<u>Cost for Regulus to insert bills (\$0.0016/each)</u>	<u>\$5,329</u>	<u>\$5,329</u>	<u>\$5,329</u>	<u>\$5,329</u>
Estimated cost for one bill insert per year	\$5,329	\$5,329	\$5,329	\$5,329
Estimated cost for two bill inserts per year	\$10,658	\$10,658	\$10,658	\$10,658

**Number of Enrollments<sup>(13)</sup>**

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	Total
Annual Increases in Participants <sup>(8)</sup>	15,000	30,000	30,000	35,000	110,000

**Program Costs<sup>(13)</sup>**

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	Annual Average	
Program Administrator Costs <sup>(9)</sup>	\$1,105,783	\$1,048,455	\$1,041,975	\$1,077,640	\$1,068,463	c
Bill Inserts <sup>(7)</sup>	\$10,658	\$10,658	\$10,658	\$10,658	\$10,658	d
Meter Exchange Costs <sup>(10)</sup>	\$1,271,469	\$2,640,983	\$2,744,057	\$3,326,924	\$2,495,858	e
<u>Meter Lease Costs<sup>(10)</sup></u>	<u>\$573,284</u>	<u>\$2,003,986</u>	<u>\$3,860,261</u>	<u>\$5,884,187</u>	<u>\$3,080,429</u>	f
Total	\$2,961,194	\$5,704,082	\$7,656,951	\$10,299,409	\$6,655,409	g = c + d + e + f
Total Including Uncollectibles	\$3,003,539	\$5,785,650	\$7,766,445	\$10,446,690	\$6,750,581	h = g * (1 + b)

**Implementation of Participation Fee<sup>(11)</sup>**

Monthly Rental Charge for a Self-Contained Class 100 or 200 Single Phase Watt-hour Meter, with Interval Demand Recording (IDR) Register for customers in the program	\$4.17	i
<u>Standard Allowance for a Self-Contained Class 100 or 200 Single Phase Watt-hour Meter</u>	<u>\$1.92</u>	j
Participation Fee	\$2.25	k = i - j

**Revenue from Participation Fee**

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	Annual Average	
Number of Participant Bills <sup>(10)</sup>	106,956	373,878	720,198	1,097,796	574,707	l
Revenue from Participation Fee @\$2.25 per customer per month	\$240,651	\$841,226	\$1,620,446	\$2,470,041	\$1,293,091	m = l * k

**Residential Real-Time Pricing Program Cost Recovery Charge**

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	Annual Average	
Cost To Be Recovered from Residential Customers	\$2,762,888	\$4,944,425	\$6,146,000	\$7,976,649	\$5,457,490	n = h - m
Residential Real-Time Pricing Program Cost Recovery Charge <sup>(12)</sup> per customer per month					\$0.14	o = n / a

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\* Notes for Page 1 of 3 are provided on Page 3 of 3 of this work paper.

**The Determination of the Residential Real-Time Pricing Program Cost Recovery Charge  
 and the Implementation of the Participation Fee**

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**General Assumptions <sup>(8)</sup>**

Base Case - Customers <sup>(1)</sup>	1,100
Attrition Rate of New Participants <sup>(1)</sup>	3.8%
Meter Lease Charges (per meter per month) <sup>(1)</sup>	\$5.36
Per Meter Exchange Charges <sup>(1)</sup>	

2007	2008	2009	2010
\$81.63	\$84.81	\$88.12	\$91.56

**Number of Enrollments <sup>(8)</sup>**

Annual Increases in Participants:	2007	2008	2009	2010
	15,000	30,000	30,000	35,000
Total Participants by the End of Year 4	110,000			

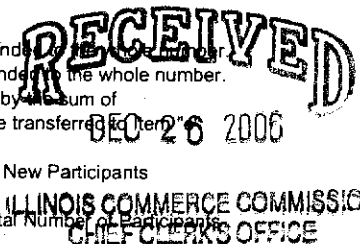
	Number of New Participants <sup>(2)</sup>				Number of Attritions <sup>(3)</sup>			
	2007	2008	2009	2010	2007	2008	2009	2010
January	1,250	2,500	2,500	2,917	48	95	95	111
February	1,250	2,500	2,500	2,917	48	95	95	111
March	1,250	2,500	2,500	2,917	48	95	95	111
April	1,250	2,500	2,500	2,917	48	95	95	111
May	1,250	2,500	2,500	2,917	48	95	95	111
June	1,250	2,500	2,500	2,917	48	95	95	111
July	1,250	2,500	2,500	2,917	48	95	95	111
August	1,250	2,500	2,500	2,917	48	95	95	111
September	1,250	2,500	2,500	2,917	48	95	95	111
October	1,250	2,500	2,500	2,917	48	95	95	111
November	1,250	2,500	2,500	2,917	48	95	95	111
December	1,250	2,500	2,500	2,917	48	95	95	111
Total	15,000	30,000	30,000	35,004	576	1,140	1,140	1,332

	2007	2008	2009	2010
Annual Number of New Participants and Attritions	15,576	31,140	31,140	36,336
Total Meter Exchange Costs <sup>(4)</sup>	\$1,271,469	\$2,640,983	\$2,744,057	\$3,326,924

	Total Number of Participants <sup>(5)</sup>				Meter Lease Charges <sup>(6)</sup>			
	2007	2008	2009	2010	2007	2008	2009	2010
January	2,302	17,929	46,789	76,050	\$12,339	\$96,099	\$250,789	\$407,628
February	3,504	20,334	49,194	78,856	\$18,781	\$108,990	\$263,680	\$422,668
March	4,706	22,739	51,599	81,662	\$25,224	\$121,881	\$276,571	\$437,708
April	5,908	25,144	54,004	84,468	\$31,667	\$134,772	\$289,461	\$452,748
May	7,110	27,549	56,409	87,274	\$38,110	\$147,663	\$302,352	\$467,789
June	8,312	29,954	58,814	90,080	\$44,552	\$160,553	\$315,243	\$482,829
July	9,514	32,359	61,219	92,886	\$50,995	\$173,444	\$328,134	\$497,869
August	10,716	34,764	63,624	95,692	\$57,438	\$186,335	\$341,025	\$512,909
September	11,918	37,169	66,029	98,498	\$63,880	\$199,226	\$353,915	\$527,949
October	13,120	39,574	68,434	101,304	\$70,323	\$212,117	\$366,806	\$542,989
November	14,322	41,979	70,839	104,110	\$76,766	\$225,007	\$379,697	\$558,030
December	15,524	44,384	73,244	106,916	\$83,209	\$237,898	\$392,588	\$573,070
Total					\$573,284	\$2,003,986	\$3,860,261	\$5,884,187
# of Participant Bills <sup>(7)</sup>	106,956	373,878	720,198	1,097,796				

**Notes:**

- (1) See General Assumptions on Page 1 of 3 of this work paper.
- (2) The Number of New Participants in each month is determined as 1/12th of the Annual Increases in Participants, rounded to the whole number.
- (3) The Number of Attritions in each month is determined as 3.8% of the Number of New Participants in the month, rounded to the whole number.
- (4) Total Meter Exchange Costs for each year is determined as the Per Meter Exchange Charge for the year multiplied by the sum of (a) the Annual Number of New Participants and (b) the Annual Number of Attritions for the year. These amounts are transferred to Item "f" on Page 1 of 3 of this work paper.
- (5) Total Number of Participants is determined as the Number of Participants in the previous month plus the Number of New Participants for the month minus the Number of Attritions for the month.
- (6) The Meter Lease Charge for the month is determined as the \$5.36 per meter per month charge multiplied by the Total Number of Participants for the month. The amounts in the Total row are transferred to Item "f" on Page 1 of 3 of this work paper.
- (7) # of Participant Bills for each year are determined as the sum of Total Number of Participants in each month of the year. The amounts in the # of Participant Bills row are transferred to Item "f" on Page 1 of 3 of this work paper.
- (8) The information on this page, other than the four numbers in the # of Participant Bills row, is presented in ComEd Exhibit 1.4, filed in this docket.



**The Determination of the Residential Real-Time Pricing Program Cost Recovery Charge  
and the Implementation of the Participation Fee**

**Compliance Filing Work Paper Notes for Page 1 of 3:**

- (1) The Test Year Number of Residential Bills, 39,967,135, is from Page 1 of 2 of ComEd Exhibit 10.9 in Docket No. 05-0597.
- (2) The residential uncollectibles percent, 1.43%, is from Page 1 of 1 of ComEd Exhibit 10.8 in Docket No. 05-0597.
- (3) The Base Case - Customers, 1,100, is the estimated number of customers taking service under Rate RHEP - Residential Hourly Energy Pricing (Experimental) ("Rate RHEP") on 1/1/2007 that will be transferred to Rate BES-H - Basic Electric Service-Hourly Energy Pricing ("Rate BES-H") on 1/2/2007.
- (4) The Attrition Rate of New Participants is 3.8% as determined based on the historical data of the existing program (i.e., Rate RHEP). Please see ComEd Exhibit 1.0, page 13, lines 273-274, filed in this docket.
- (5) The Meter Lease Charge amount, \$5.36, is the difference between the Monthly Rental Charge of a Self-Contained Class 100 or 200 Single Phase Watt-hour Meter with Interval Demand Recording ("IDR") Register, \$7.28, and the Monthly Rental Charge for a Self-Contained Class 100 or 200 Single Phase Watt-hour Meter, \$1.92, as provided in Rider ML - Meter-Related Facilities Lease ("Rider ML").
- (6) Per Meter Exchange Charges of \$81.63, \$84.81, \$88.12, and \$91.56 for 2007, 2008, 2009, and 2010, respectively, are provided by ComEd's Field and Metering Services department. Each such charge is determined based on the \$75.62 per Meter Exchange Charge for IDR meters for 2005, provided in Note (6) on page 2 of ComEd Exhibit 46.1 in Docket No. 05-0597 and a 3.9% per year expected increase. The 3.9% factor is the combination of 4% annual hourly wage increase from the current Collective Bargaining Agreement between ComEd and its employees and no increase in transportation cost for costs used in the determination of the per meter Meter Exchange Charges.
- (7) The cost for printing residential bill inserts is zero because Comverge, the Program Administrator, plans to provide printed bill inserts to ComEd to include in residential bills. The costs to design and print the bill inserts are included in the Program Administrator Costs in the Program Costs section below. The cost of putting an insert in with a bill is \$0.0016 per bill for the 2007 through 2010 period.
- (8) Annual Increases in Participants are provided by Citizens Utility Board ("CUB") witness Christopher Thomas. Please see CUB Exhibit 1.0, page 21, line 445, filed in this docket.
- (9) The Program Administrator costs are from Appendix B of the executed Program Administrator Agreement between ComEd and Comverge, the Program Administrator of ComEd's Residential Real-Time Pricing Program. A copy of such executed Program Administrator Agreement is included along with this work paper as part of the compliance filing pursuant to the order in this docket.
- (10) Meter Exchange Costs, Meter Lease Costs, and Number of Participant Bills are transferred from Page 2 of 3 of this work paper.
- (11) Pursuant to the order in this docket, the Participation Fee is \$2.25 per customer per month. The implementation of the \$2.25 Participation Fee is accomplished in accordance with the order in this docket by assessing a \$4.17 Monthly Rental Charge applied under Rider ML for the first IDR meter for customers participating in the residential real-time pricing program. Under the provisions of Rider ML, this \$4.17 charge is offset by the standard meter allowance of \$1.92, the Monthly Rental Charge listed in Rider ML for a Self-Contained Class 100 or 200, Single Phase Watt-hour Meter. A revision to Rider ML is being filed as part of the compliance filing pursuant to the order in this docket to include the \$4.17 Monthly Rental Charge as described in the previous sentence.
- (12) This charge for residential customers is listed in the Residential Real-Time Pricing Program Cost Recovery Charge section of Rider RCA - Retail Customer Assessments ("Rider RCA"), filed in compliance with the ICC Order in this docket.
- (13) The information listed under General Assumptions, Number of Enrollments, and Program Costs, other than Bill Inserts cost and Program Administrator Costs, is presented in ComEd Exhibit 1.4 filed in this docket.

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